

GOVERNMENT OF ANDHRA PRADESH  
ABSTRACT

School Education (PE) Department – Suits – APAT – C.A.No.585/2011 in O.A.No.2676/2010 filed by Smt. M.Rajyalakshmi, Junior Assistant (Retired) A.P.Baalala Academy now merged into Jawahar Bal Bhavan - Amendment to G.O.Ms.No.3, Education Department, dated.2-1-2001 duly superseding G.O.Ms.No.114, Education (Prog.II) Department dated 8-9-2003 and extending the pensioner benefits of provincialisation of services of the employees of A.P. Baalala Academy who retired prior to issue of G.O.Ms.No.3, Education Department dated 2-1-2011- Orders – Issued.

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EDUCATION (PE.PROG.II) DEPARTMENT

G.O.Ms.No. 68

Dated:18-08-2012

Read the following :

1. G.O.Ms.No.3, Education (Prog.II) Department, dated.02-01-2001
2. G.O.Rt.No.113, Education (Prog.II.1) Department dt.25-2-2003.
3. G.O.Ms.No.114, Education (Prog.II) Department dt.08-09-2003.
4. Govt.Memo.20590/SE.SP.R&E.1/2004, Education Department dated.23-05-2005.
5. Orders of the Hon'ble A.P.A.T.in O.A.NO.2676/2010, dated.7-12-2010.
6. Govt.MemoNo.1246/PE.Prog.II/A2/2010,Education Department dated.20-11-2010.
7. Govt.Memo No.1246/PE.PROG.II/A2/2010, Education Department dated.01-04-2011.
8. Orders of the Hon'ble A.P.H.C.in W.P.No.33468 of 2011 dated.20-12-2011
- 9.Orders of the Hon'ble A.P.A.T. in C.A.No.585/2011,dt.3-2-2012.

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**ORDER :**

In the reference first read above, orders were issued provincialising the services of the staff of Andhra Pradesh Baalala Academy and integrate them with Jawahar Bal Bhavan as distinctive unit namely LITERACY WING (which includes publication wing) by winding up Andhra Pradesh Baalala Academy with the pension instead of contributory provident fund, the services of the Staff of Andhra Pradesh Baalala Adademy shall be counted from the date of entry into service by the individuals.

2. In the reference 2<sup>nd</sup> read above, Government issued an amendment to G.O.Ms.No.3, Education Department, dated.2-1-2001 duly including the name of Smt.M.Rajya Lakshmi, Junior Assistant (Retired) in the annexure of G.O.Ms.No.3 Education Department, Dated.2-1-2001 as Sl.No.10 and allowed to count her service i.e., from the date of her entry into service i.e., on 03-01-1983.

3. Government issued an amendment to paragraph 4 of the G.O. first read above in the reference 3<sup>rd</sup> above. Accordingly, the services of the employees of Andhra Pradesh Baalala Academy are provincialised as annexure to this order and integrate them with Jawahar Bal Bhavan by winding up Andhra Pradesh Baalala Academy with immediate effect . The services of existing personnel of Andhra Pradesh Baalala Academy are provincialised subject to abolishing the posts as and when casual vacancies arise in the cadre.

4. The Accountant General, Andhra Pradesh, Hyderabad in his letter No.P4/IV/R 2000/SP. 864/2004-02/ADK/57, Dt:26-04-2004, while returning the pension proposal belongs to Smt. M.Rajya Lakshmi, Junior Assistant (Retired) to Director and Special Officer, Jawahar Bal Bhavan, Hyderabad has stated that, since the incumbent was retired from service on 30-4-2000 i.e, prior to issue of G.O.Ms.No.3, Education (Prog.II.I) Department, dated: 02-01-2001, it is not clear as to how she becomes eligible for any pensioner benefits referring to amendment issued vide G.O.Rt.No.113, Education (Prog.II.I) Department, dated:25-02-2003, as the benefits would accrue to those who would have retired on or after 02-01-2001 only and further stated that if the Government intension is to provincialise the services of all the employees of the then Andhra Pradesh Baalala Academy prior to issue of G.O and make them eligible for pensionary benefits, necessary orders may be obtained and forwarded the same to his office along with pension proposals for necessary action. This is the basis for issuance of Government orders vide reference 4<sup>th</sup> read above.

(PTO)

5. Smt. Rajyalakshmi, Junior Assistant, (Retired) Jawahar Bal Bhavan, Hyderabad, has filed O.A.NO.2676/2010 before the Andhra Pradesh Administrative Tribunal. The Hon'ble Andhra Pradesh Administrative Tribunal in its order dated.27-12-2010 has disposed of the said OA No.2676/2010 vide reference 5<sup>th</sup> read above. The operating part of the judgment is as follows :

But subsequently on the recommendation of the Director and Special Officer, Jawahar Bal Bhavan, Hyderabad, through his references dated 17-6-2001, 2-9-2001 and 7-3-2002, the Government vide G.O.Ms.No.3, dated.2-1-2001 issued amendment stating that after Sl.No.9 at Sl.No.10 the name of the applicant is to be mentioned in the designation of the Junior Assistant from the date of entry into service in A.P.Baalala Academy i.e., on 3-1-1983 and stated that these orders will come into force from the issuance of G.O.Ms.No.3, dated.2-1-2001. Thus, by issuance of G.O.Rt.No.113, Dated.25-2-2003 , the name of the applicant is included at Sl.No.10 in the Annexure appended to G.O.Ms.No.3, dated.2-1-2001 stating that she is also eligible for pensionary benefits and this amendment was also issued with the concurrence of Finance and Planning Department vide their U.O.No.37949/558/EBS.VI/2002 dated.30-12-2002 Thus the name of the applicant is included in G.O.Ms.No.3, dated.2-1-2001. Now, the respondents are contending that, by the date of the issuance of G.O.Ms.No.3, the applicant was retired from service and so, she is not entitled for pensioner benefits as per G.O.Ms.No.3, dt:2-1-2001 even though, G.O.Rt.No.113, dt:25-2-2003, wherein an amendment was issued to G.O.Ms No.3, dt:2-1-2001 and the name of the applicant was included, as the applicant has already retired from service about 3 years prior to the date of issuance G.O.Rt.No.113, dt:25-2-2003. In spite of taking plea that the applicant has retired from service even prior to issuance of G.O.Ms No.3, the respondents accepted the recommendation of the Director and Special Officer of Jawahar Bal Bhavan and included the name of the applicant at Sl.No.10 in G.O.Ms.No.3, in the list of provincialized candidates, who are eligible for pensioner benefits , instead of contributory Provident Fund. Thus, it is clear that, knowing fully well that the applicant has already retired from service in the month of April, 2000, the respondents have included her name in G.O.Ms No.3 stating that, she is also eligible for the pensioner benefits, instead of contributory Provident Fund. Now, having included her name in the list, the respondents cannot take a stand that, by the date of issue of G.O.Ms No.3, the applicant has already retired from service and she is not entitled for the benefit of G.O.Ms.No.3 and they are prevented to take such a plea, therefore, the 1<sup>st</sup> and 2<sup>nd</sup> respondents are directed to release the pensioner benefits to the applicant as per her eligibility as per G.O.Ms.No.3, dt:2-1-2001 and pass appropriate orders, within a period of 4 weeks from the date of receipt of a copy of this order. The O.A, is disposed of accordingly.

6. The Director, Jawahar Bal Bhavan has filed WP.No.33468/2011 against the orders of the Andhra Pradesh Administrative Tribunal. The Hon'ble High Court of Andhra Pradesh in its order dated.20-12-2011 in WP.No.33468/2011 has dismissed the WP with the following observations at admission stage :

*In the facts and circumstances and the chronology of events adverted to above, no case is made out for interference with the impugned order of the Tribunal. In view of the law laid down in L.Chandra Kumar V Union of India, the relevant facts are required to be adjudicated by the Tribunal on Consideration of the applicable provisions of the law in the first instance and it is not open to a litigant to canvass part of the case before the Tribunal and in a judicial review there against urge that there are other factors which have a bearing on the outcome of litigation. Since, G.O.Ms.No.114 Dated.8-9-2003 was not brought to the notice of the Tribunal , the petitioners are not entitled to plead that in view of the order issued in G.O.Ms.No.114, the first respondent/applicant is not entitled to the benefits of provincialization and consequent pension. Even otherwise since, in G.O.Ms.No.114, amendment to the provisions of G.O.Ms.No.3 were issued in exercise of the executive power of the state and without notice and opportunity to the applicant/1<sup>st</sup> respondent having the effect of depriving her of the benefits accrued consequent on the amendatory exercise of G.O.Rt.No.113, the amendment cannot be operationalised as it would violate the principles of natural justice.*

(Contd..3)

*For the plurality of reasons recorded above, the writ petition must fail and it is accordingly dismissed at the stage of admission. No costs.*

7. The orders of the Hon'ble High Court of Andhra Pradesh in above Writ Petition categorically stated that the amendment issued vide G.O.Ms.No.114 Education (Prog.II) Department, dated 8-9-2003 to the provisions of G.O.Ms.No.3 Education (Prog.II) Department, dated 2-1-2001 in exercise of the executive power of the state and without notice and opportunity to the applicant/1<sup>st</sup> respondent having the effect of depriving her of the benefits accrued consequent on the amendatory exercise of G.O.Rt.No.113, Education (Prog.II) Department, dated 25-2-2003 the amendment cannot be operationalised as it would violate the principles of natural justice.

8. Government after careful consideration of the judgment of the Andhra Pradesh Administrative Tribunal and Hon'ble High Court of Andhra Pradesh hereby decided to supersede the orders issued in G.O.Ms.No.114 Education (Prog.II) Department, dated 8-9-2003 in the reference 3<sup>rd</sup> read above and issued the following amendment to paragraph 4 of G.O.Ms.No.3 Education (Prog.II) Department, dated 2-1-2001 as follows:

### **AMENDMENT**

Government after careful examination of the request of the Andhra Pradesh Baalala Academy Employees Welfare Association, hereby provincialise the services of the staff of Andhra Pradesh Baalala Academy as annexed to this order and integrate them with Jawahar Bal Bhavan, as distinctive unit namely LITERACY WING (which includes publication wing) by winding up Andhra Pradesh Baalala Academy with immediate effect. For allowing pension instead of contributory provident fund, the services of the Staff of Andhra Pradesh Baalala Academy shall be counted from the date of entry into service by the individuals. Besides this pensionary benefits are also extended to the staff of Andhra Pradesh Baalala Academy who are retired from service before issue of G.O.Ms.No.3, Education (Prog.II) Department, dated 2-1-2001.

9. This order issues with the concurrence of Finance (Pension) Department vide their U.O.No.4264/74/A1/Pen.II/2012, dated 4-4-2012.

(BY ORDER IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

CHANDANA KHAN  
SPECIAL CHIEF SECRETARY TO GOVERNMENT (P.E) (FAC)

To  
The Director & Spl. Officer,  
Jawahar Bal Bhavan, Hyderabad.  
Copy to : The Accountant General, A.P Hyderabad.  
The Director of Treasuries & Accounts, A.P, Hyderabad.  
The General Administration (Ser.F) Department  
The Finance (Pen.II) Department.  
The Law (A) Department.  
Sf/sc

:: FORWARDED :: BY ORDER ::

SECTION OFFICER